in this State." Yet the better opinion and the one now generally held seems to be that the rule had its origin in the common law, and that it is founded upon the legal right derived from the contract, and not merely upon the relation of master and servant. *Walker* v. *Cronin,* 107 Mass. 555. It is said in note to *Thacker Coal & C. Co.* v. *Burke,* 5 L. R. A. (N. S.) 1091, that "in only two instances that have been discovered has the rule under discussion been questioned or criticized," citing *Rogers* v. *Evarts,* 17 N. Y. Supp. 264; *Johnston Harvester Co.* v. *Meinhardt,* 9 Abb. N. C. 393, 60 How. Pr. 168. Many courts do not limit the rule to contracts of service, but allow recovery in all cases where a third has caused the breach of the contract of whatsoever nature. *Raymond* v. *Yarrington,* 96 Tex. 443; *Angle* v. *Chi. etc. R. Co.,* 151 U. S. 1; *Walker* v. *Cronin,* 107 Mass. 555; *Jones* v. *Stanly,* 76 N. C. 355. There need be no fraudulent or illegal means used to induce the breach. It is sufficient that there be no lawful justification, *Jones* v. *Blocker,* 43 Ga. 331; *Bixby* v. *Dunlap,* 56 N. H. 456; or that the defendant have knowledge that the relation of master and servant exists, *Clark* v. *Clark,* 63 N. J. L. 1, 42 Atl. 770; *Butterfield* v. *Ashley,* 6 Cush. 249; *Brown Hardware Co.* v. *Ind. Stove Works,* 96 Tex. 453, 73 S. W. 800.

MUNICIPAL CORPORATIONS—LIMITATION OF INDEBTEDNESS—IMPROVEMENTS.—The Illinois Constitution, Art. 9, § 12, prohibits the assumption by any city of an indebtedness in excess of 5% of the property value in said city; this limit had been reached by a city at the time when it passed an ordinance providing for the construction of walks, a part of the cost to be paid by the city; but bonds were issued to take care of the city's share of the cost. A tax was levied to redeem a portion of these bonds, which levy defendant resists on the ground that the bonds are invalid and this levy unauthorized by reason of the above constitutional provision. *Held,* although this constitutional limitation does not apply to a tax levy to defray general municipal expenditures, yet when bonds have been issued against such expenditures, they constitute an indebtedness, and are within the prohibition. *People ex rel. Scoon* v. *Chicago & Alton R. Co.* (Ill. 1912), 97 N. E. 310.

Defendant contended that the assumption of an obligation for an improvement already made was not the assumption of an indebtedness, since the benefits had already completely accrued to the property of the city generally and it was virtually out of this increase in valuation that the cost of the improvement was being met. In other words, additional municipal assets had been in effect created against which the cost could be drawn without increasing the body of the municipal debt. The court refused to sanction such logic, since tax assessments are against personalty as well as against realty, and no increased value of the personalty in the city is claimed by reason of the improvement. This case states the position of the Illinois courts on the disputed question whether obligations, assumed for public improvements, which are to be met in the future, are items of indebtedness within the statutory prohibition. It is generally held that where a statute or a charter states such limitation, legislative enactment may authorize an indebtedness in excess of the same. *Swanson* v. *City of Ottumwa,* 118 Iowa 161, 91 N. W. 1048, 59 L. R. A. 620; *People* v. *City Council of Salt Lake City,* 23 Utah 13,

64 Pac. 460; *Dutton* v. *Aurora*, 114 Ill. 138, 28 N. E. 461. In this connection, compare *Reynolds* v. *City of Waterville*, 92 Me. 292, 42 Atl. 553, and *Kennebec Water District* v. *City of Waterville*, 96 Me. 234, 52 Atl. 774. The limit of municipal indebtedness had been reached in both cases; but in the former the assumption of a debt for the building of a city hall was held illegal, no express legislative authority being shown, while in the latter case the assumption of indebtedness for a water system was held not such an excess indebtedness as to be invalid when express legislative authority was shown. But a constitutional limit on indebtedness is binding on the legislature as well as on the municipality. *Village of East Moline* v. *Pope*, 224 Ill. 386, 79 N. E. 587. Such limitations do not generally operate as restrictions on the power of taxation for improvements when the limit of indebtedness has been reached. *People* v. *Chicago & Texas R. Co.*, 223 Ill. 448, 79 N. E. 151. *Gosnell* v. *City of Louisville*, 104 Ky. 201, 20 Ky. Law Rep. 519, 46 S. W. 722. There are two distinct lines of authority on this question of limitation of indebtedness for municipal improvements. One line is very liberal in favoring such improvements, and in grasping at every plausible ground for holding such expenditures good, holding that the obligation in such cases becomes an indebtedness not when it is assumed but when it becomes payable. The Iowa decisions are typical of this kind. *Dively* v. *Cedar Falls*, 27 Iowa 227; *Windsor* v. *Des Moines*, 110 Iowa 175, 188, 81 N. W. 476; *Grant* v. *Davenport*, 36 Iowa 396; *Ottumwa* v. *City Water Supply Co.*, 119 Fed. 315, 59 L. R. A. 604. *Smilie* v. *Fresno County*, 112 Cal. 311, 44 Pac. 556; *Weston* v. *Syracuse*, 17 N. Y. 110. See note in 59 L. R. A. 604. Illinois courts have usually stood for a strict interpretation and enforcement of the constitutional prohibition in question. *Prince* v. *Quincy*, 105 Ill. 138, 44 Am. Rep. 785; *Gold* v. *Peoria*, 65 Ill. App. 602; *Schnell* v. *City of Rock Island*, 232 Ill. 89, 83 N. E. 462, 14 L. R. A. (N. S.) 874. Two cases in apparent conflict with this general Illinois rule are *Jacksonville Railway Co.* v. *City of Jacksonville*, 114 Ill. 562, 2 N. E. 478, and *Stone* v. *City of Chicago*, 207 Ill. 492, 69 N. E. 970. But in both these cases, as the court in the principal case point out, it was shown that the obligation was to be met by immediate taxation, and hence was not an indebtedness. The present position of the Illinois court then seems to be that when a municipality's indebtedness has reached the constitutional limit, it may levy immediate taxes for proper improvements; but when it issues bonds or other securities for such improvements, it assumes an indebtedness contrary to the constitution, and the issue of such securities is unconstitutional.

NEGLIGENCE—LAST CLEAR CHANCE DOCTRINE—STREET RAILROADS.—Plaintiff, a child of twelve years, crossing a street while looking straight ahead, walked on the car-track four feet in front of a rapidly moving street car, which struck her. Nothing obstructed her view of the car or distracted her attention. *Held*, as a matter of law plaintiff was guilty of contributory negligence that continued to the time of the injury; therefore the defendant was liable on the doctrine of the last clear chance only if the motorman had actual knowledge of the plaintiff's danger in time to have avoided the accident. *Indianapolis Traction & Terminal Co.* v. *Croly* (Ind. 1911), 96 N. E. 973.